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DEFENCE

AND

FOREIGN AFFAIRS

A SUGGESTION FOR THE EMPIRE

BY

Z. A. LASH, K.C., LL.D.

WITH A PREFATORY NOTE BY
SIR EDMUND WALKER, C.V.O., LL.D., D.C.L.

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PREFATORY NOTE

By Sir Edmund Walker, C.V.O., LL.D., D.C.L.

For several years past groups of men in Great Britain, the Dominions, India, and elsewhere, have been associated under the name of "The Round Table" for the study of the problems which inevitably arise in the consideration of any plan for the closer organization of the Empire. The members of these groups have been purposely selected from those representing different political parties and every discoverable phase of thought regarding the subject. They have devoted themselves mainly to the study of these problems, but as a body "The Round Table" has, up to the present, offered no definite plan of its own. A member of "The Round Table," Mr. Lionel Curtis, has, entirely upon his own responsibility, published a most important book on the subject. Mr. Curtis discusses the main problem with great learning and thoroughness, and with this part of his book I am heartily in accord, but the solutions he presents involve some controversial details with which not many of us in Canada are likely to agree. Apart from the studies of the Round Table groups the question of a closer organization of some character is perhaps the most interesting of all the matters which are now pressing for settlement within the Empire. It is therefore a very great pleasure to me to be permitted to write this prefatory note to Mr. Lash's book. Mr. Lash, of course, needs no introduction either by me or by any Canadian. Few men in the Empire have had

a wider experience in legislation, and his clearness of mind, breadth of view, freedom from political bias, and ardent love of the Empire, qualify him to write with authority on this great question. As regards many of the details I am sure he will not assert that his is the only possible plan, but he here offers for our deepest and most serious study a solution of the greatest problem to be faced by the British people when we have finished the present war, and have once more made reasonably secure the freedom of the seas and the liberty of the world.

I should perhaps add that Mr. Lash is not a member of any Round Table Group or otherwise connected with that movement.

B. E. WALKER.

Toronto, Ont.,
December, 1916.

Defence and Foreign Affairs

CHAPTER I

THE PRESENT POSITION

The question as to the future relations of the self-governing Dominions of the British Empire towards the Mother Country, especially with reference to Foreign Affairs, is now occupying the thoughts of many in Great Britain and in the Dominions, as the present great war has made it apparent to thoughtful men and women that, (to use the words of Sir Robert Borden, Premier of Canada) "the great policies and questions "which concern and govern the issues of peace and "war cannot in future be assumed by the people of the "British Islands alone."

The great majority take it for granted that changes must be made, but they speak only in general terms. A few say that no changes are required other than those which will come of themselves by gradual process and development, as have come most of the changes in the constitutional position of the Empire itself. Many say that it will be time enough, when the war is over, to think about or discuss any changes which may be required. A few, a very few, have suggested plans outlining the changes which they would advocate. Among these plans, "The Problem of the Commonwealth" by Mr. Lionel Curtis, is the most definite and studious yet published, and, because it is definite and in the concrete, it is of immense value to the discussion and sets people thinking in a way which no amount of abstract discussion and general statements could do. Abstract

discussions, unless followed by some concrete proposal, seldom result in anything practical, and even an impracticable proposal often leads the discussion along practical lines and produces some practical and beneficial result. The present writer is among those who take it for granted that changes must be made in the position of the Dominions with reference to the Foreign Affairs of the Empire, and he agrees with those who think that the discussion should not be postponed until after the war. He assumes that the vast majority of the people of the Empire would oppose any plan involving the separation from the Empire of any of its parts, and he is among that majority.

Purpose of this Argument

The purpose of this argument is to shew that changes may be made in the position of the Dominions respecting Foreign Affairs without the separation from the Empire of any of its parts, and to suggest a practicable plan embodying changes which would enable the Dominions to take part in the great policies and questions which concern and govern the issues of peace and war, *and at the same time would preserve to them the autonomy which they now possess respecting all other affairs.* This great principle of preserving the autonomy of the Dominions respecting such of their affairs as do not belong to Foreign Affairs runs through the whole of this discussion.

Foreign Affairs

It is very difficult to define "Foreign Affairs;" the

meaning of the term will sufficiently appear from what follows.

The present great war has brought home to us all the truth of the following conclusions:

(*a*) That Foreign Affairs in which any part of the Empire is concerned may, sooner or later, and in ways not at first thought of, lead to war involving the whole Empire, whether such war be offensive or defensive; and consequently that the Foreign Affairs of each part of the Empire are the Foreign Affairs of the whole.

(*b*) That if war exists between the Empire and a Foreign Nation, every part of the Empire, under International law, is at war and is subject to all the consequences attendant upon war, including prohibition of trading with the enemy and the risk that any part of the Empire may, at any time, willingly or unwillingly, have to take part in the actual conflict.

(*c*) That the Empire should not postpone the preparation for its defence and for the upholding of its rights against Foreign aggression until war is actually at hand.

In Foreign Affairs are embraced the policies and questions which govern the issues of peace and war. If there were no Foreign Affairs, the need for an army or navy would be limited to Internal Affairs and the Empire's domestic peace or disturbance. If, therefore, the Dominions are to take part in these great policies and questions, they must take part in the Foreign Affairs of the Empire; and, if the Empire is to be prepared for its defence and the upholding of its

rights against Foreign aggression, they must take part in this preparation.

This war has shewn us that when diplomacy fails to avert Foreign aggression, or disregard of rights, we must either submit, or make use of force. There are only two great forces at command, the Army and the Navy; therefore, in connection with Foreign Affairs, the Dominions must take part in the control of these forces.

Conferences between Those Interested

It is taken for granted that before any plan can be framed under which the Dominions would take part in the Foreign Affairs of the Empire, meetings and conferences between representatives of the various interests concerned would be held, and the whole subject carefully investigated and studied. Detailed information would have to be obtained with respect to very many matters; the assistance of those qualified to advise with respect to Finance, the Army, the Navy, the Foreign Office, the Diplomatic Service, the Colonial Service, the Protectorates, and specially with respect to India and Egypt, would have to be sought. No one mind could possibly, in advance, grasp all the varied questions involved, or advise, with certainty, the proper course to pursue.

The suggestions offered in this argument are suggestions only, but in order that they may be more readily understood and more easily criticized, the reasons for making them are stated, and the suggestions themselves are set out in the form of definite conclusions. They

may help in the consideration of the problems to be solved.

Divisions of the Empire

For the purposes of this discussion, the Empire may be conveniently divided into six groups:

GROUP "A"—The United Kingdom of Great Britain and Ireland, which has a single Parliament elected by the people and a Government responsible to that Parliament. This Parliament differs from all other Parliaments in the Empire, as in theory it is supreme in every part; the validity of its laws cannot be questioned by any court in the Empire. Once the court has construed a law and ascertained its meaning, effect must be given to it. In practice we know that this unlimited power is exercised only in accordance with well defined limitations, especially with regard to the self-governing Dominions. With respect to Foreign Affairs, the United Kingdom alone is recognized by Foreign Governments as representing the Empire in all its parts; and, although the Government of the part specially interested is usually consulted, yet its Foreign Affairs are controlled by the United Kingdom.

GROUP "B"—The self-governing Dominions having Parliaments and Legislatures and Governments of their own, with plenary powers respecting all matters relating to their own affairs (as distinguished from Foreign Affairs) except certain matters of Imperial concern. In this group at present are Newfoundland, New Zealand, Canada, Australia, and South Africa. They are mentioned here in the order of the seniority

of their present constitutions. For convenience they are referred to as "Dominions."

GROUP "C"—Those Colonies, some of which have partial self-government and some of which are governed by an executive responsible to, and taking instructions from the British Government. For convenience these are referred to as "Crown Colonies."

GROUP "D"—India and Egypt, differing from each other, and from all others, in constitutional position and Government.

GROUP "E"—Naval stations which cannot be classed as Colonies.

GROUP "F"—Protectorates or places over which a certain authority of the United Kingdom extends, but which have not been organized as Colonies of the Empire.

GROUP "G"—Places not strictly included in the foregoing groups, but which, without special mention, will be treated as coming within one or other of the preceding groups.

Speaking generally, the only subject not included in the self-governing powers of the Dominions is that relating to their own and the Empire's Foreign Affairs. They have shewn themselves able to conduct their own affairs, and the share they have taken in the Empire's greatest war has established their right and proven their ability to participate in the Empire's Foreign Affairs.

The Crown Colonies (Group "C") have not full power to govern their own affairs, and until they acquire such power, it would seem premature to expect them to take a prominent part in Foreign Affairs.

Groups "E" and "F," the Naval Stations and Pro-

tectorates, could not be expected to take part in Foreign Affairs.

Neither India nor Egypt is yet qualified for the kind of full self-government which is the basic principle of the Empire's constitution; their geographical positions, the races and religions of their inhabitants, and their relations with Foreign Governments combine to make their Foreign Affairs of great difficulty and importance. Not being qualified for full self-government, they would seem to be not qualified to take so direct a part as the self-governing Dominions in administering the Foreign Affairs of the Empire.

The position of India requires special consideration and cannot be ignored. She has shewn such a spirit of loyalty and patriotism to the Empire, and has made such sacrifices and given such evidence of capacity, that in common fairness some special treatment in her case is necessary; that treatment might take the form of giving her a measure of self-government in advance of that which she now possesses, and of giving her representation of some special kind in the Central Authority. It might not be practicable to have her representatives elected by popular vote; they might be appointed by some machinery to be devised, which would afford a fair representation of those who form the best elements of her internal Government, and through whose public spirit she has shewn up so well in this war.

This discussion will be limited to the consideration of what is required at the present time, so that the United Kingdom and the Dominions and India may together provide for administering the Foreign Affairs of the Empire.

CHAPTER II

A CENTRAL AUTHORITY

Any plan to enable the Dominions to take part in Foreign Affairs would involve the creation of some permanent Central Authority to carry it out. If there could be a Central Authority for the Empire, which would provide for representation from all parts with a jurisdiction which would embrace not only Foreign Affairs but also all matters of general concern, such as imports and exports, customs and other duties, navigation of the high seas, naturalization and aliens, immigration and emigration, trade between the different parts of the Empire and with Foreign countries, and many other matters now falling within the self-governing powers of the Dominions, much difficulty would be obviated, but such a Central Authority for the British Empire would be an impossibility. The Dominions would not likely be willing to give up any of their present self-governing powers, or allow them to be interfered with, save only in so far as might be necessary to the success of any plan they might agree to, under which they would take part in Foreign Affairs; and they would be very reluctant to assume burdens not demonstrated to be necessary to the successful working of the plan, even in its trial stage, for it may be taken for granted that no plan which could be devised and brought into operation would be anything but a beginning of something more satisfactory to be worked out and developed by actual trial and experience. The

simpler the plan and the easier brought into operation, the more readily would it be understood and agreed to; therefore, *it seems essential that no changes should be made in the first instance in the constitutional position of the Empire, other than those absolutely necessary.* This principle as well as the principle of preserving the autonomy of the Dominions runs through the whole of this discussion; the plan suggested herein is based upon it, and is offered as one solution of the problem to be solved.

If the Empire consisted only of the Dominions and the United Kingdom, the solution of the problem, though difficult, would be comparatively simple. The United Kingdom and each of the Dominions could be left to look after what may be called its Domestic Affairs, and they could agree that their Foreign Affairs, and all which that term means, should be controlled by a Central Authority, in which each would be represented, and which, with respect to Foreign Nations, would represent the whole. In this way the complete government of the Empire (if it consisted only of the six Units referred to) could be provided for. The Domestic Affairs of each unit would be controlled by it, without interference by the others, and the Foreign Affairs of each, which means the Foreign Affairs of the whole, would be controlled by the Central Authority, in which each unit would be represented.

Inasmuch as the dividing line between the Domestic and the Foreign Affairs of the United Kingdom and of the Dominions, treated as units, might, even in this comparatively simple case sometimes be difficult to draw, it would be necessary, in constituting the Central

Authority, to provide a way of overcoming this difficulty.

But the Empire does not consist only of the six units mentioned; it consists of many units, diverse in character. Some of the Domestic Affairs of these units must continue to be more or less controlled by an overriding authority until they acquire full self-government, and, as the dividing lines between the Domestic and Foreign Affairs of some of them would be still more difficult to draw, the solution of the problem becomes, in comparison, much more difficult. This question will be discussed in detail in its appropriate place.

Nature of the Central Authority

The constitution or nature of the Central Authority is all important. It must be composed of representatives of the parties to the agreement. Numerous questions arise. Is it to be a Parliament composed of members from constituencies in the British Isles and Dominions? If not a Parliament, what sort of body is it to be? How is the total membership to be determined? How is the representation to be divided? If a Parliament, is there to be a second Chamber, and if so how is this Chamber to be constituted? Is there to be a Prime Minister and Cabinet who must hold seats in the elected Chamber, and have the confidence of the majority? In other words, is the principle of Party Government to be introduced from the outset? If the Central Authority is to be a Parliament, is it to be an entirely new creation with its jurisdiction defined? or is it to be a continuation of the present Parliament of the United Kingdom with its unlimited jurisdiction, changed only

with respect to its membership and turned into a single Chamber, or if still two Chambers then with the House of Lords differently constituted? Must the United Kingdom, before the plan can be carried out, be constituted a Dominion similar to the other Dominions and having a Dominion Parliament of its own, so that it may have representation in the Central Authority as part of the plan? or may the creation of this new Dominion be deferred indefinitely? How is the legislation to be provided, which, beyond question, will be required from time to time with reference to the constitutions of the Crown Colonies, India, Egypt, and the other parts of the Empire, including the Dominions themselves and the British Isles? Is it to be sought for from the Central Authority? Or is the existing Parliament of the British Isles to be their Parliament and at the same time to continue as the Parliament with its present *de jure* unlimited jurisdiction over the whole Empire? When legislation is required respecting the Internal or Domestic Affairs of the Crown Colonies, India, Egypt, and the other parts of the Empire not having full powers of self-government, and when their own legislative powers do not suffice, where is it to be sought? When executive action or direction is required with reference to these parts of the Empire, and the powers of their own executives do not suffice, what Executive or Department is to take the action or give the direction? Is it to emanate from the Executive of the Central Authority, or from that of the British Isles, or where? These are only some of the questions which arise. Probably more important and difficult than any are the questions relating to Finance, and the revenue and expenditure of the Central Authority.

Duties of the Central Authority

The kind of body required for the Central Authority will be more easily decided upon, if the duties to be performed by it be first considered. It *must* have jurisdiction over Foreign Affairs; this involves control of the preparations for the Empire's defence, and for the upholding of her rights against Foreign aggression. In order to be prepared for war, it *must* control an Army and Navy, and *must* be able to provide for the expenditure required in connection with these great affairs. As connected with the Army and Navy it should have the necessary jurisdiction over stations like Gibraltar, Malta, etc., on the great maritime routes, and it should have such control over the Suez Canal as is now possessed by the United Kingdom.

So far as the Dominions are concerned, no duties need be entrusted to the Central Authority other than those connected with or incident to the great matters referred to. Their claim to take part in Foreign Affairs would, in this way, be fully met, and, *prima facie,* the need for conferring upon the Central Authority any jurisdiction, not connected with or incident to these matters, would not arise.

Some of the greatest practical difficulties involved in the questions above asked would be overcome if, instead of being a Parliament composed of hundreds of members from various constituencies and having general jurisdiction, the Central Authority were an Executive and Legislative body consisting of so many members only as might be required to afford the necessary representation and to perform the necessary duties. Instead of having to divide the British Isles

and the Dominions into hundreds of new constituencies, it would not be necessary to make any divisions at all, unless the unit concerned desired to do so. The difficulties connected with a second Chamber would not arise. The existing plan of Party Government need not be introduced. The constitution of the present Parliament of the United Kingdom would not necessarily be interfered with. The question of constituting the British Isles a Dominion would not have to be dealt with before, or as part of the plan. Legislation and executive action or direction required for the Crown Colonies, India, Egypt, and the other parts of the Empire would be dealt with as at present.

If the duties of the Central Authority were confined to the great matters referred to, it could give continuous attention to them and would have time to do so, a consummation devoutly to be wished; and there might thus be avoided a recurrence of some of the mistakes made in the past by those in charge of the Empire's Foreign Affairs, and which no doubt arose because Ministers of the Crown in Great Britain were overburdened with other duties.

CHAPTER III

"THE PROBLEM OF THE COMMONWEALTH"

It is asserted in unqualified terms by Mr. Lionel Curtis, who has given much study to the subject, and whose views are entitled to great respect, that no workable plan under which the Dominions could share in the control of Empire Foreign Affairs could possibly be devised, unless the Central Authority had the responsibility of directing not only the Foreign Affairs but also the Domestic or Internal Affairs of India, Egypt, the Crown Colonies, and Protectorates. This position is set out very clearly and ably in "The Problem of the Commonwealth." As this question is so fundamental and important, and as no discussion of any plan for a Central Authority would be complete were it not considered, the position taken in "The Problem of the Commonwealth" is here explained. It is that the present Parliament of the United Kingdom, with its unlimited jurisdiction, should be continued (technically) as the Central Authority, but that instead of the House of Commons consisting of representatives elected only by the people of the British Isles, it should consist of representatives elected by the people of the British Isles and of the Dominions. The House of Lords would have to be abolished, leaving the Parliament with one Chamber only, or the second Chamber would have to be so constituted as to contain representatives of the British Isles and the Dominions.

Before the plan could take effect, a new Parliament for the British Isles would have to be provided, bearing the same general relation to the Central Authority as the Dominions would bear, and having similar jurisdiction over Domestic Affairs. The principle of a Premier and Cabinet chosen by the Premier having the confidence of the majority of the popular house, would be continued, and the members of the Cabinet would have to hold seats in Parliament. Mr. Curtis says: "The "United Kingdom must have a National Government "of its own, the counterpart of the National Govern- "ments of Canada, Australia, New Zealand, and South "Africa. The Imperial Government (or Central "Authority) must have no more to do with exclusively "British Affairs than it now has with the National "Affairs of the several Dominions. . . . The pow- "ers of a Dominion Parliament cover the whole field "of government, with the exception of those few but "all-important powers which have remained central- "ized in the Imperial Government at Westminster. The "problem before us is to enumerate those functions "which experience has proved to be common to all "British subjects throughout the Commonwealth, and "which should therefore be reserved to a Parliament "answerable to British subjects in all the communities "which have proved themselves fit for the task of self- "government." Keeping in mind this plan, its working is discussed. "The Cabinet which controls For- "eign Affairs must also control naval and military "forces proportioned to the facts of the situation, or, "to speak more precisely, proportioned to the estimate "of those facts which the Cabinet makes. Foreign "Affairs cannot be divorced from Defence; Ministers

"responsible for an army must sit in the same Cabinet "with Ministers responsible for Foreign Affairs."

. . . .

"We are absolutely safe in assuming that no Cabinet "will ever be formed for the conduct of Imperial "Affairs, which does not include the First Lord of the "Admiralty, the Secretary of State for War, and an "Imperial Minister of Finance, as well as a Foreign "Secretary." . . .

"Now all the men who have filled these offices will "agree that the conduct of foreign policy and the man- "agement of naval and military affairs are inseparably "connected with the control of India, the Protectorates "of Egypt and Central Africa, and the West Indies, "and also of isolated posts on the great maritime routes "like Gibraltar, Malta, Perim, Aden, Singapore, and "Hong-Kong. Each and all of them would insist that "no Cabinet could ever be responsible for the conduct "of Foreign Affairs and Defence, unless it included the "Secretary of State for India, and the Colonial Secre- "tary. When the Government of the United Kingdom "had been placed on the same footing as those of Can- "ada, Australia, New Zealand, and South Africa, the "Colonial Secretary would, of course, be confined to "dealing with the Crown Colonies. In this part of the "enquiry, the term 'Colonial Office' must be understood "as referring to that side of his department only."

NOTE:—The Colonial office, as at present consituted, has a sub-department which corresponds or deals with the self-governing Dominions. It is presumed that Mr. Curtis assumes that this sub-department would become unnecessary after the Central Authority—as he plans it—had been constituted, because under his plan the Dominions would correspond direct with the Central Authority.

The book gives cogent reasons why the people of India, Egypt, the Protectorates of South Africa, and of the Crown Colonies, inhabited, for the most part, by the backward races, could not be entrusted with self-government, and continues: "those races nevertheless "comprise the great part of mankind, and of this major-"ity the British people are now responsible for the "government of about one-third." . . .

"By the extension of its citizenship to the backward "races, the Commonwealth has come to include one-"quarter of the human race."

Reference is made to opinions expressed by some that these vast communities should be given their independence, and to their opinion, that if India, Egypt, and the African Protectorates must be governed from outside, " the responsibility, they would say, must be left "where it now rests with the people of the British "Isles. There are many who would welcome the pros-"pect of joining with the people of Britain in the "control of Imperial Affairs, and in bearing their full "share of the cost, who would yet be shocked at the "idea of themselves becoming involved in the task of "controlling India. The position created by this "attitude in the Dominions is seriously complicated by "the vigorous protest with which any such proposal is "certain to evoke from India, and perhaps from Egypt. "Here is one of the most serious difficulties which have "to be met in solving the problem which now confronts "the Commonwealth." . . .

"The stability of a Government established from out-"side depends, in the last resort, on its power to employ "the physical force necessary to uphold its authority. "In plain words Britain could govern neither India nor

"Egypt unless it maintained, in both these countries, a "British army strong enough to enforce its authority. "The body which creates and controls these forces is "the body which must also be responsible for the policy "of the Government whose authority it may be called "upon to uphold." . . .

"India, Egypt, and the African territories by reason "of their size, as well as of their position, inevitably "bring whatever government controls them into deli- "cate relations with foreign states. The conduct of "their internal government is so inseparably connected "with the conduct of foreign affairs and defence, that "the business of the Foreign, Indian, and Colonial "offices could not be conducted at all unless the Minis- "ters in charge of them were united in one Cabinet ". . . that one authority should control the Indian "and Egyptian armies, while another and wholly "separate authority controls their civil administration, "is unthinkable. . . . No statesman experienced "in such matters will ever consent to be answerable for "the safety of the Commonwealth to one Parliament, "if Ministers responsible for the government of India "and the great Dependencies, are to be made responsi- "ble to another. No proposal to entrust the conduct "of Foreign Affairs to a Parliament responsible to all "the self-governing Dominions, while leaving the De- "pendencies to the Dominion Parliament of the British "Isles, is feasible in practice." . . .

"The people of the Dominions cannot share in the "control of their Foreign Affairs, with those of the "British Isles, unless they are ready to share also in the "task of governing the great Dependencies. Let those "who decline to face this prospect accept the alterna-

"tive. Let them recognize at once that the people of "the Dominions must each conduct their own Foreign "Affairs for themselves through their own Dominion "Governments; let them realize, that, in order to do so, "the Dominions must assume their independence; that "their people must renounce forever their status as "British citizens; that this project of a Commonwealth "must be abandoned, and that all the consequences for "abandoning it must be faced. In the last analysis "there is no middle way. The Foreign Affairs of the "Commonwealth are such that their conduct cannot be "divorced from the responsibility of governing those "vast portions of it, which cannot govern themselves. "The Ministers in charge of these functions must all "sit together in one Cabinet. So intimately connected "are their duties, that there can be no period of transi- "tion during which some of them sit in one Cabinet "and some in another. They have never been sep- "arated, and never can be, so long as the pillars of the "Commonwealth stand."

Comments upon the Foregoing

The views quoted are expressed in very emphatic, vigorous language. They are not founded upon any legal difficulty in the way of a Central Authority, based upon a separation of the control of Foreign Affairs from the control of Internal or Domestic Affairs connected with India, Egypt, and the Crown Colonies and Protectorates. They are addressed to the practical position, and are statements of opinion or judgment, rather than of fact.

If, after debate and discussion among those having

the necessary knowledge and information about the past course of events in the Foreign Office, the Colonial Office, and the Indian Office, and about the reasons for the complications and difficulties which have arisen in relation to Foreign Affairs connected with the administration of these Dependencies, it should be deliberately determined that any plan for a Central Authority, based upon such separation, would be impracticable and too dangerous to try, then it is possible that the Dominions, rather than give up the attempt to create a Central Authority, would agree to a plan involving no separation; but the reasons against it are weighty, especially from a point of view which may be found widespread in the Dominions.

One Point of View

It would be natural for a resident of a Dominion to say: "We want to take part in Foreign Affairs only, we "have all the other powers we desire. We know noth- "ing about either the Foreign or Domestic Affairs of "India, Egypt, or the Protectorates, and very little "about those of the Crown Colonies. Why should we "have to take any responsibility in connection with "their Domestic Affairs? And why should we have "to take the chance of becoming financially responsible "in some way in connection with them? We had no "part one way or the other in acquiring them—why "can't the United Kingdom which did acquire them "and knows all about them, go on attending to them as "before? We'd be only in the way. When they attain "the necessary measure of self-government, we'll be "glad to have them represented in the Central Author-

"ity, or even to have them in some way represented "there from the beginning. Meantime we don't want "to take part in their Internal Affairs, if we can help it. "The Central Authority will have its hands full in "looking after Foreign Affairs and the Army and "Navy, and in getting and keeping ready to resist For- "eign aggression and uphold the Empire's rights against "Foreign countries. If it's a question of helping out "the Mother Country in the expense, we'll be glad to "discuss it, but not to send representatives to take part "in affairs in which we can't see we're concerned." It would be hard to convince such a man to the contrary, unless some plan, based on separation, had been tried and failed.

Another Point of View

There is another point of view, which has strong support, but which may be found not so widespread as the other. It is, that the Empire is composed of the Mother Country and her Dominions and Colonies and Dependencies, all forming one family, and that if the Dominions should say, "We have no concern with the affairs of the Colonies and Dependencies, because we had no part in acquiring them," it would be as if a son should say to his mother, "I have no concern with the "affairs of my brothers and sisters; you must continue "to look after them till they are able to look after "themselves; I don't want to be consulted. Of course "I don't want them to leave the family any more than "I want to leave it myself, and I'm quite willing to join "you in a plan for keeping us all together and prevent- "ing anything like kidnapping or the stealing of our

"property, but I won't do anything for you or them "unless I have something to gain for myself by doing it. "I am getting on pretty well now, thanks to your care "and expenditure in the past, and I have a little money "laid by, and if you would like a little of it to help you "out with the family expenses, just let me know and "I'll see what can be done."

Sentiment has a powerful influence in most human affairs, and it cannot be disregarded in any questions arising between the Mother Country and the Dominions, but on the other hand a business discussion cannot be conducted and a conclusion reached on sentiment only.

The position taken in "The Problem of the Commonwealth" must be supported or answered on business principles. Is it true that no permanent practical plan can be devised, which would accomplish the great object in view, unless the Central Authority is charged with the responsibility of directing both the Internal or Domestic Affairs of India, Egypt, and the Crown Colonies and Protectorates, as well as their Foreign Affairs? It may be taken for granted, that no agreement would be made, vesting in a Central Authority any responsibility for the Internal or Domestic Affairs of the Dominions. Why must the contrary be a necessity in the cases of the Crown Colonies, India, and Egypt? The mere fact that they have not full powers of self-government does not prove it.

Affairs of the Dominions

Take the Dominions first; their affairs embrace the following:

(*a*) Those of a purely domestic nature, which they

can manage as separate units of the Empire, and in respect of which, under International law, no Foreign Government can properly claim to be interested, or claim the right to complain.

(*b*) Affairs which, though regarded as Domestic, yet sometimes partake of a Foreign nature, and in respect of which the Dominions may or may not have relations with Foreign states, or in respect of which a Foreign government may, or may not, properly claim to have some interest or right of complaint, and which may, or may not, lead to foreign complications.

(*c*) Foreign Affairs proper, in respect of which the Dominions have no status by themselves, and in respect of which they must, at present, be represented by the United Kingdom. Embraced in this class may be affairs arising out of those embraced in Class (*b*).

To illustrate—in Class (*b*) there would probably be included the subjects of Naturalization and Aliens, Immigration, Navigation and Shipping, Trade with the other Dominions and with Foreign countries, Imports and Exports, Customs and other duties, Questions relating to boundaries and International streams and waters, Conventions and arrangements with Foreign Governments upon Domestic Matters, as distinguished from Foreign Affairs proper.

The subjects embraced in Class (*a*) would, of course, *not* be entrusted to the Central Authority, but those embraced in Class (*c*) would equally, of course, come under its jurisdiction; the difficulty would be with the middle Class (*b*). It might be thought advisable, or even necessary, to entrust to the Central Authority, some control, within specified limits, over some of the subjects in this class. This is a matter largely of detail,

which would have to be worked out by those engaged in formulating the plan.

Affairs of the Crown Colonies

Speaking generally, the affairs of the Crown Colonies may be divided into three similar classes. What practical difficulty would there be in leaving the control of Class (*a*) where it is, and in transferring the control of Class (*c*) to a Central Authority? There would be no legal difficulty—whether it would be fair or unfair to do so is a different question. There remains Class (*b*). In the case of the Crown Colonies, this class would probably not present difficulties as great as in the cases of India and Egypt, and the treatment might proceed along similar lines to those suggested below for these great Dependencies.

Affairs of India and Egypt

India and Egypt must have affairs of a purely domestic nature, in respect of which no Foreign Government could properly claim to be interested, or claim the right to complain. It may be difficult to draw the line where this Class of affairs ends, and another Class begins, but the line surely can be drawn, even though it err on the safe side. What practical difficulty would there be in leaving the control of this Class where it now is?

India and Egypt have their Foreign Affairs in respect of which no Government other than the Central Authority would have the *status* to act and speak for them. These affairs would necessarily be controlled by

the Central Authority. The dividing line might be difficult to draw, but surely it too could be drawn, even though it err on the safe side. The greatest difficulty would be with respect to the middle class (*b*) lying between the other two, because this middle class might change in its conditions, what are Domestic Affairs to-day, might become Foreign Affairs to-morrow, or should be treated as such so as to avoid complications expected or feared. Could this difficulty be overcome? This question can be answered only after the past and present conditions respecting these great countries have been studied, the Foreign Office and Indian Office records examined, and the dividing lines drawn between those subjects which may be safely left to domestic control and those which should be placed in the class of Foreign Affairs.

Suggested Safety Valve for Dividing Line

In the Canadian Constitution (the British North America Act 1867) power is conferred on the Parliament of Canada to declare any local works, within a Province, to be for the general advantage of Canada, and such a declaration removes them from the legislative authority of the Provincial Legislature and brings them under that of the Dominion Parliament. Could not the principle involved in this be applied in defining Foreign Affairs for India and Egypt? After the required study has been made, could they not be defined with reasonable accuracy? A clause to the effect of the following would supply a safety valve—"Foreign "Affairs shall include such other matters as the Central "Authority may, from time to time, declare to be For-

"eign Affairs, and such declaration may be unlimited "or limited as to time or purpose, and may be, from "time to time, repealed or altered by extension, limita- "tion, addition, or omission." If any error were made in the definition of Foreign Affairs, it could be corrected in this way. Power might be conferred on the Central Authority to amend the original definition by omitting from it, indefinitely or temporarily, any matter which experience might shew would be better dealt with if treated as part of the Domestic Affairs.

CHAPTER IV

PROTECTORATES

The term "Protectorate" does not, itself, indicate the nature of the government of the territory included within it. British Protectorates are districts more or less inhabited, which have been taken under the "protection" of Great Britain, without being annexed to or incorporated into the Empire. They are frequently the result of diplomatic arrangements between powerful nations, under which, when one Nation has acquired, by war or otherwise, control of additional territory, the other Nation claims and assumes, as a sort of compensation, control over other territory, Sometimes this control is by actual annexation, sometimes by recognition of the right to protect the District from Foreign aggression or interference. The term is an indefinite one. The rights over one Protectorate may differ greatly from those over another. Other nations may have, or be accorded certain rights in the protected district, or the "Protector" may be in sole control. Before the more formal possession of Egypt was taken by the British Government since Turkey entered the war, Egypt was a Protectorate of Great Britain, but Turkey was, what might be called, its Suzerain, and other nations had rights and interests through "capitulations," or agreements, made with the Egyptian Government. Egypt may be taken as an example of one extreme—the Protectorates in Africa are examples of the other extreme. They are Districts inhabitated almost exclusively by

blacks, who are not at all fitted for self-government of the kind known to us. At the same time by means of Chiefs and Headmen, and a savage sort of tribal rule, they do attend to their purely Domestic Affairs. Resident officials appointed by the British Government have general authority within the British Protectorates in South Africa and so exercise it as to keep peace and order, as far as possible, between the different tribes and people, and to promote their interests, and specially to prevent illicit trading, and the impositions always practised upon backward coloured races by unscrupulous whites. The duties of the Residents have been performed with the assistance of military forces supplied by the British Government.

Foreign Affairs of the Protectorates

Strictly speaking, the people of these African Protectorates have had no Foreign Affairs of their own since the Protectorates were established. Before that time their Foreign Affairs resulted from the interferences by the people of Foreign Nations, and the disputes of their Governments.

Since the establishment of the Protectorates, their Foreign Affairs have been practically confined to questions between the British Government and Foreign Nations, arising out of interferences and claims by people from such Nations, and of claims made, or rights asserted, by Foreign Governments.

Owing to the great importance to the Union of South Africa of the destiny or future of those Protectorates which border upon the Union, the relations between the Resident and the Government of the Union, and the

Governor-General as a British official, are necessarily very close, and that Government would naturally complain, if it were not kept informed of, and consulted about matters of importance affecting the Protectorates, so that the Foreign Affairs of the Protectorates are, to a great extent, the Foreign Affairs of South Africa.

The Union of South Africa and the Protectorates

If the Government of the Union by itself, or with the assistance of forces supplied by the Central Authority, were able to preserve peace and order within the Protectorates, why should not their Internal Affairs be directed by that Government, instead of by the Government of Great Britain? Would not the question resolve itself mainly into one of expense? Why, therefore, *must* the Central Authority be charged with the direction of these Internal Affairs any more than with the direction of the Internal Affairs of South Africa itself? If it should not be practicable to entrust the direction of the Internal Affairs of these Protectorates to the Union of South Africa before, or as part of the plan for the creation of the Central Authority, why *must* the direction of these affairs be changed from the present position and vested in the Central Authority? Does not the British Government now consult South Africa with respect to these affairs, and with respect to their effect upon, or relation to, Foreign Affairs? Why could not the Central Authority, as representing Foreign Affairs, be consulted?

The only reason for creating a Central Authority is that the Foreign Affairs of the whole Empire may be

in one control, and that the Empire may be guided aright in its relations to other Nations. Would not there be constant consultation between the Central Authority and the Governments of the United Kingdom, and of the Dominions, relating to their Internal or Domestic Affairs, in so far as they had a bearing upon Foreign Affairs? If the Central Authority has to administer the Foreign Affairs of Great Britain and the Dominions, without control over their Domestic or Internal Affairs (and no plan or any other basis would be feasible), why cannot the Foreign Affairs of the Protectorates be also administered by it, leaving the control over their Domestic or Internal Affairs to the government of the United Kingdom, where it now rests? It would be less difficult to define Foreign Affairs with respect to the Protectorates than with respect to India or Egypt. Once defined, would not the British Government, which has had so wide an experience, be better qualified to direct the rest than any Central Authority newly constituted?

When considering the opinions quoted from "The Problem of the Commonwealth," it must be borne in mind that they have been formed upon the assumption that the Central Authority would be a Parliament with a Prime Minister and Cabinet, and that the principles applying to party government would apply. If such a plan were the only one which could be devised and be practicable, the objections to the separation mentioned might be more formidable, but by no means unanswerable; but, if the Central Authority be a small Executive and Legislative body of the kind below explained, and, if the principle of party government with Prime Minister and Cabinet be not introduced, the

objections lose most of their weight and ought not to prevent the successful working out of a plan involving the separation referred to.

When the nature and jurisdiction of this Executive and Legislative body is discussed, it will be seen that the essential difference between the duties proposed to be entrusted to it and those proposed to be entrusted to the Parliament and Cabinet under the other plan, is limited to the direction or control of the Internal or Domestic Affairs of the great Dependencies mentioned.

Startling Alternative in "The Problem of the Commonwealth"

The alternative presented in "The Problem of the Commonwealth" to the people of the Dominions, that, if they want to take part in the control of their Foreign Affairs, they must either join in the task of governing the great Dependencies or assume their independence and renounce forever their status as British citizens, is a startling and, if true, a serious matter for those who look forward to the consolidation of the Empire by means of some plan which would not involve so great a change as that involved in the alternative presented. The alternative quoted is presented as from the United Kingdom to the Dominions. It is earnestly hoped that the counterpart alternative may never have to be presented by the Dominions to the United Kingdom.

CHAPTER V

JURISDICTION OF EXISTING IMPERIAL PARLIAMENT REQUIRED

Before discussing the constitution and duties of the Executive and Legislative body suggested for the Central Authority, reference will be made to the necessity for preserving the great jurisdiction of the existing Imperial Parliament for an indefinite period. The reasons are:

1st—The constitutional positions of the members of Groups "D" and "C," viz., India, Egypt, and the Colonies having partial or no self-government, will undoubtedly require legislative action from time to time.

2nd—The terms of any plan which may be agreed upon for solving the problem under discussion will certainly have to be modified or extended by supplemental agreements requiring legislation.

3rd—Amendments to the constitution of the Central Authority, extending or limiting its jurisdiction in reference to matters upon which supplemental agreements may not be deemed necessary, may be required.

4th—Amendments to the constitutions of the Dominions (Group "B"), or some of them, respecting their Internal Affairs, may require legislation.

5th—Amendments to any federal constitu-

tion for the British Isles which may be created may require legislation.

6th—Legislation respecting "Protectorates" will surely be required.

7th—Matters unforeseen at the present time, and arising from changed world or local conditions may require legislation, if the growth and development of the Empire and its constitution are to go on successfully.

8th—Unless there be in existence some jurisdiction as extensive as that now possessed by the existing Imperial Parliament, which could pass the legislation required in the foregoing and other events, serious and embarrassing difficulties would be encountered. Some way would have to be devised for making the amendments, and for dealing with unforeseen matters, and for taking the action which will undoubtedly be required from time to time with reference to India, Egypt, and the Crown Colonies. All the powers necessary are now possessed by the Imperial Parliament, and it would be unwise to try and find a new way, instead of taking advantage of this old simple way to accomplish all that may be required in the above events. The approval of the people of the British Isles and of the Dominions (Group "B") would be necessary to the creation of a new Imperial Parliament. The jurisdiction of it would have to be defined by a written constitution. Though the people would be content that the powers of the existing Parliament should remain as they now are, yet if a proposal were made involving

the disappearance of that Parliament and the creation of another, the jurisdiction to be conferred upon that other would be closely scrutinized, and awkward limits would be created.

Advantages of Unwritten Constitution

The advantages of the present practically unwritten constitution in connection with the constitutional development of the Empire are too clear to need argument. This development has gone on, greatly helped by, if not because of, the elastic nature of the jurisdiction of the existing Imperial Parliament and Cabinet and Privy Council and Departments of Government. To transfer the greater part of all this to a practically new body, even though it be in theory a successor of the old, would appear revolutionary, and would certainly be fraught with danger. If, therefore, some workable arrangement for the Dominions to take part in Foreign Affairs can be devised, without constituting a Central Authority with so wide a scope that it would carry with it the Legislative and Executive jurisdiction over everything connected with the Empire and its development, except Domestic Affairs of the Dominions and the British Isles, the revolutionary and dangerous nature of the wider plan would be avoided. Indeed, the very nature of the wider plan would, of itself, be a reason for not adopting it, quite irrespective of the objections which would be made by the Dominions and other parts of the Empire. The transfer could be made only by agreement with the Dominions, and the result of such an agreement might be, and probably would be, to deprive the present position of much of

its elasticity, and to hinder development, because the agreement would practically constitute a written and inelastic constitution for the Empire.

Why should not the existing Imperial Parliament continue to be the Parliament of the British Isles, and at the same time continue to be the Parliament to legislate with respect to the Empire generally? The Dominions are now under its jurisdiction, but they do not fear any interference by it with their self-governing or other rights; the new Central Authority, once constituted, need fear no interference, and the creation of that authority need not await the prolonged process of the prior creation of a Dominion for the British Isles. On the same principle, why should not the existing Imperial Government continue to be the Government of the British Isles and at the same time continue to be the paramount executive authority with respect to so much of the affairs of India, Egypt, the Crown Colonies, and the Protectorates as may not be placed under the control of the Central Authority?

Anomaly Respecting Imperial Parliament

By many has the anomaly been pointed out, that the Parliament of the United Kingdom, elected by the voters in the British Isles only, and the Government responsible to that Parliament only, make laws for, and govern to a more or less extent, India, Egypt, the Crown Colonies, and the Protectorates, although these places have no representation in either Parliament or Government. The same anomaly prevails with respect to Foreign Affairs, and War and Peace. The constitution of the whole Empire is anomalous, and surprising,

but it exists, and changes to overcome the anomalies can be made only gradually.

A long step in advance would be taken by creating a Central Authority to control Foreign Affairs and the Army and Navy, but the anomaly would not be thereby overcome; the Central Authority would still represent only voters in parts of the Empire. To give such an authority jurisdiction over Domestic or Internal Affairs in the parts not represented would probably cause dissatisfaction in those parts. They might well rest content with the position as it now exists, but some might protest vigorously against a change which would give to parts of the Empire, hitherto regarded as Colonies only—though having extensive self-government,—a share in the direction of their Domestic or Internal Affairs.

CHAPTER VI

THE CONSTITUTION OF THE CENTRAL AUTHORITY

Assuming that the difficulty of drawing the dividing lines between Foreign and Domestic Affairs in the cases of the Dominions, Crown Colonies, India and Egypt, and the Protectorates can be overcome in the way above suggested, or in some other practicable way, and that a trial at least would be made of a Central Authority having jurisdiction only over Foreign Affairs, the Army and Navy, and over the expenditure involved, what kind of body would be the simplest and easiest to create and at the same time answer the purposes required?

Public or Private Discussion

Foreign Affairs, as a rule, by their very nature do not admit of public discussion while they are being conducted; they do require continuous discussion and attention by the ablest men of the Nation. They sometimes require quick action, both Executive and Legislative.

This war has led many to think that too much secrecy has been observed in the past, and that had the public been taken into the confidence of the Foreign Office or the Government, many difficulties and misunderstandings would have been avoided and great good would have resulted. It would seem to be impracticable to define in advance all the matters or classes of matters which should be discussed in public, or about which the

public should be informed, either during their progress or after their completion. Much must be left to the judgment of those responsible and in charge, but certain matters should be discussed in public, and the Central Authority should be so constituted as to provide for all this. The Army and Navy, as a rule, require Executive rather than Legislative action; when legislation for them is required, it should, as a rule, be discussed in public. The estimates of expenditure required for the Central Authority, and the reports and accounts of expenditure should be presented and explained in public. All treaties and arrangements with Foreign Nations should be made public and, unless there be special reasons to the contrary, the substance of negotiations should be made public during their progress. It might be well to consider the advisability of providing that any arrangement not made public within a limited time after being concluded would cease to have effect.

An Imperial Council

As already indicated, it is suggested that an Imperial Council having Executive and Legislative powers and consisting of the Crown and a small number of elected representatives from the United Kingdom and the Dominions, and representatives from India (not necessarily elected) would best answer the requirements.

In time of peace, its jurisdiction should be confined to the special subjects mentioned and their incidents, but in time of war its jurisdiction should be practically unlimited for all purposes deemed necessary for the war, subject only to such special limitations as may form part of the plan of Finance, or as may be agreed

on after study and report by those who will have to deal with the whole subject.

Small Membership

The total membership in this Council should be kept down as low as possible, having regard to efficiency and representation—the number of qualified and available men would be limited, especially in the smaller Dominions—the question of expense and the unwieldy nature of a numerically large body must not be lost sight of. The voting power in the Council need not be proportioned to the number of representatives—those from the United Kingdom, the Dominions, and India respectively might, as groups, be given a stated number of votes for each group, based upon some general principle. Regard might be had to the amount contributed by the places represented by the groups for the purposes of the Imperial Council under the financial plan relating to these contributions.

The scale of voting thus established should be subject to revision periodically under some fair and feasible plan.

How Members Appointed

The general scheme and manner of electing their representatives should be left for the decision of the respective Dominions and United Kingdom, but it should be framed in such way that the members elected would, as far as possible, represent the majority of all the voters so that they might go to the Council as the representatives of the United Kingdom, Canada, Australia, or other Dominion, and not as the representatives of any party or section therein.

The manner of appointing the representatives from India would be provided for in the agreement constituting the Central Authority.

The members of the Council should hold office for a stated period, but power to dissolve should be vested in the Crown, with proper safeguards surrounding the exercise of it.

Sittings of the Council might take place anywhere, but should ordinarily take place in England, and the Council should have power to fix the times of sitting, and to regulate the procedure thereat. The members should ordinarily reside in England and be prepared to devote their whole time to the business and requirements of the Council. They should be well paid, and they should not be allowed to hold a seat in any Parliament or Legislature, or be members of any Government, but, with a view to keeping out party politics, the Premier and the Leader of the Opposition in the United Kingdom and each Dominion might be made *ex officio* members of the Council.

Keep out Party Politics

Except in England these latter could not take much personal part in the work, but the mere fact of their *ex officio* membership would, of itself, tend to suppress any inclination towards party politics. As members of the Council they would feel more free to discuss with each other the questions with which the Council had to deal, without fear of being suspected of trying to take a party advantage. This fear usually prevents a Premier and a Leader of the Opposition from frank discussion, outside of Parliament, upon matters coming

before Parliament. The fact that these *ex officio* members would be equally entitled to information respecting the acts and intentions of the Council would tend to allay any suspicion that either Government or Opposition was getting information which the other could not get.

During the trial stage of the Imperial Council, the Colonial Secretary and the Secretary of State for India and Egypt, or whoever might act in that capacity, might, for *consultation* purposes, not for actual work, be *ex officio* members. This would to a certain extent help to overcome the objection so strongly urged in "The Problem of the Commonwealth" to the separation of these Ministers from the Minister of Foreign Affairs.

Departments and Ministers

There should be four chief departments of the Council, viz., Foreign Affairs, the Army, the Navy, and Finance, and the Council should have power to create other departments or bureaus and to work by committees, and to make all necessary rules and regulations and orders relating to the administration of its business.

The Council should appoint its own presiding officer or President to hold office during pleasure (also a Vice-President if necessary).

The advice of the Council to the Crown and such of its decisions and proceedings as require communication to the Crown should be communicated by the President, or in such way as His Majesty upon the advice of the Council might decide.

The Council should appoint the Ministers of Foreign Affairs, of the Army and the Navy, and of Finance.

The existing Foreign Office, and Army and Navy Offices should be transferred to the control of the Council.

The Council should be expressly authorized to make laws respecting Foreign Affairs (as may be defined) and respecting the Army and Navy with the limitations mentioned below, and respecting War and Peace and the upholding and defending of the rights and interests of the Empire against Foreign aggression.

The Council should be empowered to borrow money and issue securities and obligations, and to carry out the plan of finance.

It should be empowered to provide for the constitution of Courts having jurisdicion in the whole or parts of the Empire for the better administration of the laws relating to any matter coming within the classes of subjects in respect of which it is empowered to make laws. All Governments and Courts in all parts of the Empire and the Judges and officials thereof, and all Magistrates, Sheriffs, and other officials connected with the administration of justice should be required to aid and assist in the carrying out and enforcing of the laws and orders of the Council, and the judgments and decrees of the Courts constituted by it.

The Judicial Committee of His Majesty's Privy Council should be authorized to decide questions respecting the Executive or Legislative authority of the Council.

Provisions should be made for representation in the Council of any Colony or Dependency of the Empire, which may hereafter possess plenary powers of self-government.

CHAPTER VII

SPECIAL PROVISIONS RESPECTING LAND AND NAVAL FORCES

In order that the principle of preserving the autonomy of the Dominions may be observed there should be special provisions respecting the land and naval military forces in times of peace.

The Military forces, land and naval, of the Empire may, for the purposes of this suggestion, be divided into, and called:

(*a*) "Imperial Armies and Royal Navies"* respectively, being those parts of the respective land and naval forces which, at the time of creating the Central Authority, did not belong to or were not controlled by any Dominion, Colony, or Dependency (including India and Egypt).

(*b*) "Colonial Armies," "Colonial Navies," respectively, or those parts of the respective land and naval forces which did belong to, or were controlled by a Dominion, Colony, or Dependency.

Aerial service would be deemed part of land or naval forces, as the case might be.

It is suggested that the administration and control of the Imperial Armies and the Royal Navies should, at all times, be vested in the Central Authority, but the administration and control of the Colonial Armies and the Colonial Navies, and the laws relating to them and the authority to alter the laws, administration, and con-

*NOTE.—The British Navy is popularly known as the "Royal Navy," and this term is introduced here for convenience.

trol, should continue as at the time of the creation of the Central Authority, so long as a state of war, actual or apprehended, does not exist between the Empire and any Foreign power or people, and during such time of peace the administration and control of the Colonial Armies and the Colonial Navies should not be exercised by the Central Authority without the assent of the Governments or authorities which respectively, at the time, exercise administration and control over them; but upon a state of war, actual or apprehended arising, and so long as it exists, the Central Authority should be at liberty to exercise such control and administration. At the end of the war Colonial Armies or Colonial Navies sent out of a Dominion should be returned.

The decision of the Central Authority as to a state of war, actual or apprehended, existing should be final.

Special provisions would probably be required respecting the Armies and Navies of India and Egypt, and of any Colony or Dependency possessing them, which is not represented in the Central Authority.

The Central Authority should at all times have the right to bring or maintain within any Dominion, Colony, or Dependency (including India, Egypt, and the Protectorates) so much of the Imperial Armies and Royal Navies as it might deem expedient.

The military forces, land and naval, of the Empire controlled and administered by the Central Authority should be available, if required in connection with the Domestic or Internal Affairs of any part of the Empire, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids; provisions

should be made for this and for proper responsibility for the expense connected with it. In making such provision the principle of preserving the autonomy of the Dominions should be observed.

Military Service for Internal or Domestic Affairs

The following provisions are suggested:

When military service, land or naval, is required in connection with the Domestic or Internal Affairs of the British Isles, or of India, Egypt, or any Colony or Dependency of the Empire (including Protectorates) other than the Dominions, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Central Authority should comply with a request for such service made in accordance with regulations to be established, or, of its own motion, it should have power to send the same.

When military service, land or naval, is required in connection with the Domestic or Internal Affairs of a Dominion, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Central Authority should, upon the request of the Government of such Dominion, but not otherwise, send such service, if, in the opinion of such Government, the forces subject to its control are not adequate.

Should military service, land or naval, be sent by the Central Authority to any part of the Empire, (including a Dominion upon the request of its Government) in connection with its Domestic or Internal Affairs, or for the other purposes mentioned, then the control and administration of the forces belonging to such part should be exercised by the Central Authority, for such

time as may be required to accomplish the purpose. This seems necessary in order that the forces sent by the Central Authority and the other forces may be worked together without conflict of authority.

In Times of Peace

When a state of war, actual or apprehended does not exist, no part of the Colonial Armies or the Colonial Navies belonging to a Dominion should be sent out of such Dominion by the Central Authority, without the consent of the Government of such Dominion.

The Expenses

The respective parts of the Empire, represented in the Central Authority should, in the first instance, bear the expense of military service, land or naval, sent by the Central Authority in accordance with the above suggestions.

As the Government of the United Kingdom would, upon the plan suggested for the creation of the Central Authority, represent in Domestic and Internal Affairs, all parts of the Empire except the Dominions and Naval Stations, it is suggested that such expenses in connection with the British Isles, India, Egypt, or any Colony or Dependency of the Empire other than the Dominions, should, in the first instance, be borne by the Government of the United Kingdom.

A Dominion should, in the first instance, bear the expenses of military service, land or naval, furnished by the Central Authority to it, but inasmuch as in cases of Domestic disturbance when the Military is called

out, municipalities or other divisions of the British Isles, or of a Dominion or Colony, are generally made liable for the expenses, the Government of the United Kingdom, or of a Dominion, as the case might be, should have the right to recover the expenses from the proper parties.

It is stated in "The Problem of the Commonwealth," with reference to India and Egypt, that Britain could govern neither of these countries, "unless it maintained "in both, a British Army strong enough to enforce its "authority. The body which creates and controls these "forces is the body which must also be responsible for "the policy of the Government whose authority it may "be called upon to uphold."

If the latter statement be sound as a general principle of Government, then no Central Authority could be created and given control of the Army and Navy and be entrusted with the duty of upholding the authority of the Dominions in case of need, unless it was made responsible for the policies of the Dominion Governments with reference to their Domestic or Internal Affairs. Mr. Curtis, of course, did not mean that, and if it is not a sound principle with respect to the Dominions, why *must* it be established as a principle with respect to India, Egypt, or other parts of the Empire? In fact it is not a principle at all, and can be supported only with respect to India and Egypt by reasons of expediency, based upon the actual conditions there, and upon the conclusion, after these conditions have been studied, that no other plan is safe or practicable. As already mentioned, the plan suggested in "The Problem of the Commonwealth" involves a Parliament and Cabinet and party government from the outset in the

Central Authority, and it is only because of the principles or practices applicable to party government that there is any warrant for the statement in the way it is made.

It must be remembered that the Central Authority would be part of the Government of the Empire, not an alien body, and in administering so important a function of Government as the control of the military forces, land and naval, it would station its forces at such places in the Empire as would, at all times, in its opinion best serve the peace, order, and good government of the whole. Judgment as to this must now be exercised by the Government of the United Kingdom. Would not the Central Authority be as well equipped to exercise this judgment? And if it were not governed by party considerations, would it not be better able to arrive at the proper conclusion and to act upon it?

Under the plan suggested the Government of the United Kingdom would, with reference to India, Egypt, the Crown Colonies, and the Protectorates be as well able to employ the physical forces necessary to uphold its authority as it now is, because, should such forces become necessary, that Government could require the Central Authority to furnish them.

CHAPTER VIII

THE AGREEMENT

The agreement constituting a Central Authority should be submitted to the people of Great Britain and the Dominions for approval, and upon being approved, it would have to be ratified by Act of the existing Imperial Parliament and the necessary provisions made for carrying it out.

Any amendments to the constitutions of the Dominions which might be required for the proper creation of the Central Authority, and which under their own powers the Dominions could not themselves make, could be made by an Act of the Imperial Parliament ratifying the agreement.

The Constitution of the Central Authority should provide in some convenient way for its amendment from time to time.

A convenient way would seem to be by an Act of the existing Imperial Parliament passed at the request of the Parliaments of the Dominions or of a certain majority of them.

As already mentioned, the Dominions need not fear that the power to amend, which would continue in the Imperial Parliament, would be exercised contrary to the terms of the agreement constituting the Central Authority or in contravention of its constitution.

Power of Dissolution

It has been suggested above that the members of the Central Authority should hold office for a stated period, but that a power of dissolution should be vested in the Crown subject to proper safeguards. Why should the power of dissolution exist, and what safeguards should surround it?

When a period is fixed, beyond which the life of a Parliament cannot extend, the necessity for the power of dissolution is not so great as if the period were unlimited, yet circumstances frequently call for the exercise of the power, and it would be unwise not to have it exist. In the case of a Parliament elected by the people, having authority to make laws respecting Domestic and Internal Affairs and led by a Government opposed by a regular Opposition, it would be difficult to limit the power of dissolution by stated conditions; precedents and constitutional custom govern, the final discretion being exercised by the Crown, but the advice of the Government is usually followed, unless special circumstances exist which seem to the Crown to call for the exercise of an independent judgment.

Reasons for Dissolution

The main reason for dissolving Parliament is that the people may have an opportunity at a general election to express their approval or disapproval of what the Government and Parliament may have done, and to give any "mandate" for the future which may be deemed expedient. If the Government be defeated in

the House and they claim that the decision does not represent the will of the majority of the people, and if the last general election has taken place a considerable length of time previously, the Government, instead of resigning then and there, might ask for a dissolution, so that the question involved may be submitted to the people at a general election. In such case the Crown usually grants the request. If, however, the last general election has taken place not long previously, and particularly if the question has formed part of the issues contested thereat, the Crown may, and usually does, refuse a dissolution, the result being to compel the Government to resign.

How far should these principles apply in the case of an Executive and Legislative body not based on Party Government and with jurisdiction only over Foreign Affairs and their incidents? It is difficult to give specific reasons in such a case why the power to dissolve should exist at all. In any event it should not be lightly exercised. The verdict of approval or disapproval and any mandate for the future would be given by the people of the British Isles and all the Dominions. It would, therefore, seem to follow that the reason for an earlier dissolution than the expiry of the term, should be a reason which affected these people as a whole, and not a reason confined to some of them only. The reason should also be based upon facts and conditions which could be publicly discussed at the time of dissolution without detriment to the interests of the Empire, and there should be a real and important reason for discussion, and one which would occupy the attention of the people as being the outstanding issue at the election; in other words a dissolution should not

take place for an alleged reason when the true reason was something else upon which it would not have been justified.

What Safeguards?

What safeguards could be thrown around the exercise of the power? Should the advice of the Central Authority be required as a condition precedent, and should this advice be given, if supported by a bare majority, or should a large majority, say two-thirds, be required, or should it be unanimous? Should the request of the Government of one or more of the Dominions be required, as well as the advice of the Central Authority, or should the Crown be empowered to act on its own judgment and be required to do so when ordering a dissolution? Much can be said in favour of leaving it entirely to the Crown, always bearing in mind the nature of the Central Authority and the jurisdiction possessed by it. These are questions which must be considered and answered when the Central Authority is being constituted.

CHAPTER IX

THE FINANCIAL PLAN

The financial plan necessary is the most difficult of all; it is the crux of the whole problem. Even to suggest its solution now in detail would be a waste of time. The financial positions of the United Kingdom and of the Dominions and other parts of the Empire have been greatly changed by the war, and before the war is over still greater changes will occur. No one can tell what the positions will be, when the problem now under discussion is being considered with a view to its actual solution.

Underlying Principles

There are, however, at least two underlying principles which must be adhered to when formulating any financial plan.

As the Central Authority could not carry on its great work without money, it must look to Great Britain, the Dominions, and such other parts of the Empire as join in the agreement, to provide this money, but the ways and means of providing it should be left to them. They might provide it by borrowing or by taxation in whole or part. In practice and except for special reasons, the money would be raised yearly by Great Britain and the Dominions by taxes as part of the general revenue required to carry on the Government. Some of the taxes would be direct, such as income tax, and some would be indirect, such as customs duties. Some

would affect one class more than another. The taxation powers of Great Britain and the Dominions are unlimited with respect to the mode; and, in theory at least, the powers are so exercised that those best able to pay pay the most, and in theory also taxation is imposed whether for revenue only or for "protection" as well, in such manner that the resources of the country may be developed along the most profitable lines, and that manufactures and industries and trade may be encouraged. It is evident, therefore, that a Government, responsible for the well being of the people and controlling a Parliament having jurisdiction over their Domestic and Every Day Affairs, should have as free a hand as possible with reference to taxation and its incidence; therefore, the first underlying principle of the financial plan of the Central Authority should be that no interference with the incidence of taxation should take place by action of the Central Authority, unless absolutely necessary.

The people of Great Britain and the Dominions would object strongly to giving to any authority but their own Parliament the power to tax them directly. If they are to take part in Foreign Affairs, they must take part also in the expenditure, but the taxation for such expenditure should be imposed by their own Parliament, and should not be imposed by the Central Authority, unless their own Government and Parliament did not act as called for by the agreement, raise the money agreed on, and pay it over to the Central Authority.

In case of war, or other strain upon the resources of the Central Authority, money must be borrowed. The ability to borrow large sums depends upon the credit

of the borrower, and credit depends upon the resources of the borrower and the ability to repay; therefore the second basic principle of any financial plan requires that the credit of the Central Authority be placed beyond doubt. But its ability to carry on its work should not be left to depend entirely upon the performance by another party of its agreement. Sometime or other the agreement might not be performed, and the whole structure of the Central Authority might fall down for want of money. This was the experience of the United States of America under their first abortive Federal agreement of 1777, which gave way under the first strain. The Central Authority there was powerless to carry on effectively any Government, not only because sufficient power had not been vested in it, but also because its resources depended upon the willingness of the States to furnish their quota of the expenditure required. The Central Authority had no power to raise its revenue directly from the people. This and other defects were remedied in the Constitution agreed upon in 1787, under which the great Republic has grown to its present wonderful position.

If the Government or Parliament of a Dominion did not act as called for by the agreement, raise the money agreed on and pay it over to the Central Authority, then as the Credit of that Authority must be maintained and its revenues kept up, it must in such event have power to raise in some way from the Dominion and its people the amount for which they might be in default. The Financial plan should provide for this. It should also provide that the plan should be subject to revision from time to time in accordance with some fair scheme of revision.

CHAPTER X

DISADVANTAGES OF PARTY GOVERNMENT

The question whether the Foreign Affairs of the Empire with all their incidents are to be governed by the party system of a Premier and Cabinet who must have control of the Parliament or other legislative body, or whether they are to be governed by a Council having Executive and Legislative powers where there would be no Government and Opposition as such, is so important that some remarks thereon seem necessary.

Frequently when Parliamentary action has been required in England in reference to Foreign Affairs, whether to pass an Act of Parliament or to discuss action by the Government or otherwise, the parties have endeavoured to take the question out of party politics and debate it on its merits free from the party bias. By doing this they admit that Foreign Affairs should not be made a party question, but as it is difficult to keep party feelings and party interests in the background, the endeavour has not always been successful, and the public interest has not always been the first consideration.

If the Central Authority be launched with a Parliament and a Cabinet, a Government and an Opposition, sooner or later, questions would be decided in the interests of party, and the old game would be played and the public interests would suffer. We know that party Government is inseparable from a constitution so

framed. Nothing has been devised to take its place, permanently. It may be that, in some way which cannot be foretold, an Executive and Legislative Council elected by the people of Great Britain and the Dominions voting not in small constituencies but in Provinces or large Districts, and sitting as a deliberate body presided over by a Chairman or President without greater authority (except for Chairmanship purposes) than that of any other member, would in some way at some time develop into a tribunal with party Government, but the experiment of such a Council is worth trying.

When there is a Government and Opposition, each party tries to keep from the other any information respecting a public measure until it is brought down, and if it be a Government measure the Government fears loss of prestige if amendments submitted by the Opposition are accepted, and for that reason it accepts as few as possible, even though they may be in the public interest and would have formed part of the measure when first brought down had the Government had the advantage of prior discussion with the Opposition. Measures introduced by the Opposition and eminently in the public interests are reluctantly accepted by the Government and are not infrequently voted down, so as to prevent the Opposition from getting the credit of having them placed on the Statute book. The greater the *kudos* resulting from the passing of a measure introduced by the Opposition, the more likely would it be defeated or shelved.

The bitterness of party debate upon a Government measure is largely due to the impersonal nature of the measure; it is regarded as the act of the whole Government, and all are responsible for it. If it be a

measure involving an important policy, the fate of the Government may depend upon its being passed, and Government supporters must support it or get into disfavour with their party. Nearly all Opposition amendments, good and bad, are voted down; many of them, of course, deserve this fate, for they are introduced to embarrass the Government or give the Opposition some supposed advantage. The result is, that the measure is carried by the Government Majority; but if the real views of the members on both sides of the House could be ascertained, it might not infrequently be found that the measure would not have been carried if all had voted in accordance with their real views, which, because of the party tie they did not dare to express.

Advantages of Non-Party Government

These are but a few illustrations of the disadvantages of Party Government. Contrast them with illustrations of the procedure in an Executive and Legislative Council of the kind suggested. Each member would there speak for himself and not for a Government or an Opposition considered as being responsible for what he said. The bitterness of party debate would be absent, as the impersonal element and the collective responsibility would not be there. If a measure proposed by any member were carried or defeated, it would be because the majority were, or were not, in favour of it, and not because they voted for or against it merely to save a party defeat or to support their party's position.

Before a measure is introduced, the necessity or reason for it could be discussed with all or any of the mem-

bers, without embarrassment through fear of party advantage or disadvantage. The measure itself, or the amendments, would be accepted or rejected by the majority, without the result being to defeat a Government or to give one party an advantage over the other.

If a measure relating to a Department were introduced by the Head of the Department and were defeated, he might resign, but no one else need do so, or he might still retain office, if the majority so wished. He would decide to resign or not, more on personal than on constitutional grounds.

The defeat of an important measure introduced by the Head of a Department would probably be a very unusual event, because before introducing it he would doubtless avail himself of the opportunity of prior discussion, which would be impossible under Party Government.

The defeat of the Head of a Department would give the majority no advantage; if he resigned, they would appoint his successor, and there would be no crisis.

The majority of votes of the whole Council would, of course, govern, but this majority might be different on each occasion, and no embarrassment would be felt.

Differences of opinion there certainly would be, and measures would be freely criticized, but honest speakers would have no inducement to carry or defeat a measure outside of the merits or demerits of the measure itself.

Arrangements and understandings would be possible among members that a particular measure would be supported or defeated if some other measure were supported or defeated, but the ability to make such arrangements is inseparable from any Assembly where

voting on various questions takes place. The members of the Central Authority of the British Empire might surely be trusted not to descend to the low level required of those who would make such arrangements.

It must always be borne in mind that, except in case of war, no measures would be passed by the Central Authority which did not relate to Foreign Affairs or the other matters referred to; very little legislation would be required. The chief function of the Central Authority would be executive.

Draft Agreement

As an aid in considering and understanding the plan discussed, and to shew more clearly the intentions with respect to the constitution and working of the Central Authority, and to lead the thoughts of the readers along practical lines, the draft of a suggested agreement (phrased as a bill in Parliament would be phrased) constituting the Central Authority, is given in the Appendix.

It has been assumed that the constitution of the British Isles will remain as it is for the present, except with respect to Foreign Affairs. Should it be determined to alter such constitution by creating a Dominion and States or Provinces therein or otherwise, such alteration could be made by the Imperial Parliament, without reference to the other parties to the agreement, it being of course assumed that in making the alteration the terms of the agreement and the constitution of the Central Authority would be respected.

The idea of making some of the legislative authority of the Imperial Council exclusive, and some not ex-

clusive, as appearing in Clause 29 of the draft in the Appendix is taken from the Australian Constitutional Act.

Though the matters with respect to which, according to this draft, the Imperial Council would be authorized to make laws are of vast importance, yet they are limited in number, and do not affect the every-day life of the people, and the questions which may arise as to whether a power is exclusive or not, are not likely to be frequent.

Certain amendments to the British North America Act, which is the Constitution of Canada, and to the Constitutional Acts of other Dominions may be required in order that there may be no conflict between them and the agreement, and that the terms of the agreement may be properly carried out. Any such amendments would be practically formal and need not be specially noted here. They could be made by the Act of the Imperial Parliament ratifying the agreement.

APPENDIX

DRAFT OF SUGGESTED AGREEMENT BETWEEN GREAT BRITAIN AND THE OVERSEAS DOMINIONS AND INDIA CONSTITUTING A CENTRAL AUTHORITY WITH RESPECT TO DEFENCE AND THE FOREIGN AFFAIRS OF THE EMPIRE

Recital. WHEREAS the peoples of all parts of the British Empire have, by the loyalty and zeal which they have shown in the Great War with Germany and her allies, proven that, though dwelling in places far separated from one another, they are united in the determination to observe and compel observance of treaties and to uphold the rights and interests of the Empire against all foreign aggression.

AND WHEREAS, in order that the peoples of the Empire and their various Governments and countries may be more closely and permanently united, it is expedient that the affairs of the Empire, in so far as they relate to foreign nations and peoples, should be entrusted to one Central Authority and that such Authority should be enabled to uphold the rights and interests of the Empire and every part thereof, and to defend the same.

AND WHEREAS the respective governments of the United Kingdom of Great Britain and Ireland and of Newfoundland, New Zealand, Canada, Australia, and South Africa, being the parts of the Empire having plenary powers of self-government, have by their duly accredited representatives, met for the purpose of agreeing upon the constitution and powers of such Central Authority, and upon their representation therein and their relations thereto.

AND WHEREAS India was also duly represented at such meeting.

AND WHEREAS the terms and conditions hereinafter set forth have been agreed to.

THEREFORE, subject to the approval of this agreement to be given by the parties hereto as herein provided for, it is agreed by the respective parties aforesaid, as follows:—

Interpretation. 1. In this agreement, unless the context otherwise requires, the following words and expressions have and include the following meanings:—

(*a*) "His Majesty the King" means and includes His Majesty and heirs and successors of His Majesty as King.

(*b*) "British Empire" means and includes the United Kingdom, India, Egypt, and all Dominions, colonies and dependencies and places recognizing His Majesty the King as the Sovereign thereof; it also includes Protectorates.

(*c*) "United Kingdom" means and includes the United Kingdom of Great Britain and Ireland.

(*d*) "The British Isles" means and includes England, Scotland, Wales, Ireland and all Islands and places which form parts of them.

(*e*) "Dominions" means and includes Newfoundland, Canada, New Zealand, Australia, South Africa, and all Islands and places which form parts of them respectively.

(*f*) "Newfoundland" means and includes the Colony of Newfoundland and all Islands and places which form parts of it.

(*g*) "New Zealand" means and includes the Dominion of New Zealand and all Islands and places which form parts of it.

(*h*) "Canada" means and includes the Dominion of Canada and all Islands and places which form parts of it.

(*i*) "Australia" means and includes the Commonwealth of Australia and all Islands and places which form parts of it.

(*j*) "South Africa" means and includes the Union of South Africa and all Islands and places which form parts of it.

(*k*) "India" means and includes .....

(*Here it would be defined.*)

(*l*) "Ratifying Act" means the Act to be passed by the Parliament of the United Kingdom providing for the confirmation of this agreement, and the carrying out of the same.

(*m*) "Laws" includes rules, regulations, and orders.

(*n*) "Naval Stations," "Protectorates" respectively means and includes the places mentioned in the first and second parts respectively of the first schedule to this agreement.

(*o*) "Military Forces and Services" includes Land and Naval Militia and Forces and men, lands, premises, ships, arms, accoutrements, munitions and all facilities belonging to, or used, or useful for, or in connection with Land and Naval Militia and Forces and the Services thereof.

(*p*) "Imperial Armies," "Royal Navies" respectively means and includes those parts of the respective Land and Naval

Military Services and Forces of the Empire which, at the time when the Ratifying Act comes into force, do not belong to or are not controlled or administered by any Dominion, Colony, or Dependency (including India and Egypt), or by any Government or authority thereof or therein, also all additions thereto made after the Ratifying Act comes into force.

(*q*) "Colonial Armies," "Colonial Navies" respectively means and includes those parts of the respective Land and Naval Military Forces and Services of the Empire which, at the time when the Ratifying Act comes into force, belong to or are controlled or administered by any Dominion, Colony, or Dependency (including India and Egypt), or by any Government or authority thereof or therein, also all additions thereto made after the Ratifying Act comes into force.

Agreement to be published and submitted to plebiscite.

2. The six Governments first above mentioned shall, respectively, without delay after the signing hereof by their accredited representatives, publish in their official Gazettes respectively, a copy of this agreement, and shall continue such publication once each week for at least ..... weeks, and the said Governments respectively, shall, within ..... months after the signing hereof, submit to a plebiscite of those in said places respectively entitled to vote at elections of members of the Parliament thereof, the questions set out in the second schedule hereto, and if the majority of the votes given upon each plebiscite is in the affirmative, this agreement shall be deemed to have been approved. The manner and time of taking such plebiscite in each place, and all details relating thereto shall be such as the Parliament of such place may provide.

(Here would be inserted any provision agreed on respecting the approval of India, which would have to be provided for in a different way.)

Act confirming to be passed.

3. Upon this agreement being approved, under the last preceding clause, the Government of the United Kingdom shall, as soon as practicable, submit to the Parliament of the United Kingdom, and shall support the passing of the necessary measure to provide for the confirmation of this agreement and the carrying out of the same.

4. Upon the Ratifying Act being passed, the said Governments

Acts to carry out agreement to be passed.

of the Dominions respectively shall, as soon as practicable, submit to their respective Parliaments and shall support the passing of the necessary measures to provide for the carrying out of such of the provisions of this agreement as may require legislation by such Parliament for the carrying out thereof.

(Here would be inserted any provision agreed on with reference to Imperial or local legislation required in respect of India.)

Imperial Council constituted.

5. A Council for the British Empire, herein called the Imperial Council, having plenary Executive and Legislative powers and authority respecting the matters provided for, consisting of His Majesty the King, and of representatives from the British Isles, and the Dominions and India, shall be constituted and maintained in the manner and with the powers and authority herein defined.

Representatives in Imperial Council.

6. In addition to *ex officio* members (if any) hereinafter provided for, and until the numbers of representatives provided for in this clause are changed under the provisions hereinafter contained, there shall be ..... members of the Imperial Council, of whom ..... shall be representatives from the British Isles, ... from Newfoundland, ... from New Zealand, ... from Canada, ... from Australia, ... from South Africa, and ..... from India.

Ex-officio members.

7. The Parliament of the United Kingdom of Great Britain and Ireland may provide that in addition to the ..... members or representatives from the British Isles the following or any of them shall be *ex officio* members, viz.:—The Prime Minister; the person recognized as the Leader of the Opposition in the House of Commons; the Secretary of State for the Colonies, and the members of the Government being the Heads of the Departments administering Indian and Egyptian affairs. The respective Parliaments of the Dominions may provide that in addition to the number of members or representatives from those places respectively provided for by the preceding clause, the following shall be *ex officio* members, viz.:—The Prime Minister of the Governments respectively, and the person recognized as the Leader of the Opposition in the Houses of Commons respectively.

Qualifications of members of Imperial Council.

8. A member of the Imperial Council (not *ex officio*) shall be a man of the full age of ..... years, and he shall be either a natural born British subject, or a subject naturalized under the authority of an Act of the Parliaments of the United Kingdom or of the Dominions respectively, or of the Parliament or Legislature respectively of any of the States, Provinces, or Colonies now forming part of any of them, and before taking his seat in the Imperial Council, he shall take and subscribe before His Majesty the King, or before some person authorized by His Majesty, or before the Governor-General of the place represented by him in the Imperial Council, or before some person authorized by the Govenor-General, the oath of allegiance and of office contained in the third schedule to this agreement.

Qualifications of members of Imperial Council.

9. Save as set forth in the last preceding clause hereof, the qualifications of a member of the Imperial Council (not *ex officio* or not from India) shall be such as may from time to time be prescribed by Act of the Parliament of the place from which he is a representative, and the qualifications of a member from India shall be such as may from time to time be prescribed by or under the authority of an Act of the Parliament of the United Kingdom.

Qualifications of members of Imperial Council.

10. A member of the Imperial Council (not *ex officio*) shall not be capable of being elected or appointed as a member of, or of sitting or voting in either House of the Parliaments of the United Kingdom, of any of the Dominions, or of any Legislature of any State, Province, or other part of any of such places, or of any Legislative body in India.

Manner of appointment of members.

11. The Parliaments of the United Kingdom and of the Dominions respectively shall, from time to time, provide for the manner in which the members or representatives in the Imperial Council from said places respectively, shall be appointed or elected, and for the manner of the appointment or election of a member to take the place of any representative from such place, whose office may have become vacant by death, resignation, want of qualification, or otherwise. The first elections or appointment of representatives in the Council from each of said places, shall take place within ..... months after the time when the Ratifying Act comes into force. Future elections or appoint-

ments shall take place without delay after the occasion therefor has arisen. It shall be the duty of the respective Governments of the said respective places to see to the carrying out of the provisions of the respective Acts providing for such elections or appointments with respect both to the first and to all future elections or appointments. The authority conferred by this clause with respect to the United Kingdom and the Dominions shall, with respect to India, be exercised by the Parliament of the United Kingdom.

Meaning of Imperial Council.

12. The provisions of this agreement referring to the Imperial Council shall, unless the context otherwise requires, be construed as referring to His Majesty acting by and with the advice of the Imperial Council.

Term of office.

13. Subject to the provisions hereinafter contained, the members of the Imperial Council elected or appointed as aforesaid shall hold office for the term of ..... years after their respective appointments or elections thereto, or until their successors are respectively elected or appointed.

Crown may dissolve.

14. His Majesty the King may, at any time, declare that the terms of office of all the members of the Imperial Council shall expire on a day to be fixed, and may require the respective Governments of the United Kingdom and Dominions to see to the elections and appointments of the successors of the members representatives from the United Kingdom and India and from said Dominions respectively, and it shall be the duty of said Governments respectively to comply with such requisition before the expiration of the day so fixed. PROVIDED that before such declaration and requisition is made the following shall be complied with, viz.:—(*Here the safeguards surrounding the power of dissolution would be provided*). PROVIDED ALWAYS that if for any reason the elections or appointments of the successors of the representatives from any of said places should not take place before the expiration of said day, the said representatives shall hold office until their successors are elected or appointed.

Conditions of dissolution.

Sittings.

15. Sittings of the Imperial Council may take place anywhere within or without the Empire, but, until otherwise provided by

the Imperial Council, its sittings shall ordinarily take place in England. Until otherwise provided by the Council, its proceedings at meetings shall, as far as practicable, conform to the proceedings of the House of Commons of the Parliament of the United Kingdom.

First meeting.

16. The first meeting of the Imperial Council shall be called by His Majesty the King on the advice of His Majesty's Most Honourable Privy Council, to be held in such place and at such time as His Majesty may decide. The calling of subsequent meetings and the place of meeting shall be as rules or regulations made by the Imperial Council may prescribe.

Resignation of members.

17. A member of the Imperial Council may resign his office in such manner, and on such terms, as the Council may by rule or regulation from time to time establish, and in the absence of any such rule or regulation, a member may resign his office by written resignation sent to the President of the Council, who shall submit the same to the Council at its next meeting. PROVIDED that such resignation shall not take effect until accepted by the Council.

Vacancies, how filled.

18. Upon the death of a member of the Council from the United Kingdom or India, or upon his resignation becoming effective, or upon his place becoming vacant under the next succeeding clause hereof, the fact of such death, resignation, or vacancy shall, without delay, be certified in such manner as the Council may prescribe to such authority of the United Kingdom or India, or both, as the Council may decide. Upon the death of a member of the Council from a Dominion, or upon his resignation becoming effective, or upon his place becoming vacant under the next succeeding clause hereof, the fact of such death, resignation, or vacancy shall, without delay, be certified in such manner as the Council may prescribe, to the Governor-General of the place from which such member was a representative. Upon any death, resignation, or vacancy being certified, the election or appointment of a representative in the Council to take the place of the previous members during the unexpired part of his term of office shall be had, and all necessary steps and proceedings in that behalf shall, as soon as practicable, be taken in order that such election or appointment may take place without delay. The fact

of such election or appointment shall, in the case of the United Kingdom or India, be certified to the Imperial Council in such way as the Government of the United Kingdom may decide, and, in the case of a Dominion, it shall be certified by the Governor-General.

When place of member to become vacant.

19. The place of a member of the Imperial Council (not *ex officio*) shall become vacant in any of the following cases:—

(1) If for a period of ..... in any year he fails to attend the meetings of the Council, without the consent of the Council to his absence.

(2) If he takes an oath, or makes a declaration or acknowledgment, obedience or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen of a foreign power.

(3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter.

(4) If he is attainted of treason, or convicted of felony or of any infamous crime.

(5) If he ceases to have the qualification as a member of the Council duly prescribed in his behalf.

Result of vacancy.

20. Upon a vacancy occurring by death, resignation, or under the last preceding clause, the Council shall consist of the remaining members until the vacancy has been filled.

Questions as to vacancies.

21. If any question arises respecting the qualifications of a member of the Imperial Council, or as to a vacancy in the Council, the same shall be heard and determined by the Council.

Quorum.

22. Until the Imperial Council, with the approval of the Governments of the United Kingdom and of the Dominions respectively, otherwise provides, the presence of at least ..... members of the Council shall be necessary to constitute a meeting of the Council for the exercise of its powers.

President and Vice-President.

23. The Council shall appoint one of its members to be its President, and may appoint a member to be its Vice-President. The President and Vice-President shall hold office during the pleasure of the Council.

Advice of Council to Crown.

24. The advice of the Imperial Council to His Majesty the King, and such of its decisions and proceedings as require com-

munication to His Majesty, shall be communicated by the President of the Council, or in such way as His Majesty, upon the advice of the Council, may from time to time decide.

How questions in Council decided.

25. Questions other than points of order, arising in the Council, shall be decided by a majority of voices of the members present, and the President, Vice-President or Chairman presiding at the meeting shall, in all cases, have a vote, and when the voices are equal the decision shall be deemed to be in the negative, PROVIDED always that before taking a vote by voices the majority of the representatives present from any place may call for a decision by representative votes, and in such case the vote upon any question shall, until the following plan is changed under the provisions hereinafter contained, be taken in accordance with the following plan, viz.:—The representatives from the United Kingdom present shall together have ..... votes; the representatives from Newfoundland present shall together have ..... votes; the representatives from New Zealand present shall together have ..... votes; the representatives from Canada present shall together have ..... votes; the representatives from Australia present shall together have .....votes; the representatives from South Africa present shall together have ..... votes; and the representatives from India present shall together have ..... votes. The votes of the various groups of representatives shall be recorded as the majority of those present of each of such groups may decide; provided that if there be an equal division in any group, the votes of such group shall not be recorded, and the question shall be decided without reference thereto. Points of order shall be decided in accordance with the practice of the House of Commons of the United Kingdom, or as the Council may prescribe.

Votes.

Revision of plan of voting.

26. *(Here would be inserted the provisions agreed on for changing the plan of voting, or the number of votes of the various groups.)*

Powers, etc. of existing Parliaments preserved.

27. Except as expressly or by necessary inference otherwise provided in, or authorized by this agreement, none of the powers, authorities, rights, or privileges possessed by the Parliament or Government of Great Britain, or of any Dominion, or by the

Legislature or Government of any Province or State thereof shall be abridged or prejudiced by anything herein contained or done hereunder.

Foreign affairs defined.

28. In the next succeeding clause hereof the term "Foreign Affairs" shall with respect to the United Kingdom, the Dominions, India, Egypt, the Protectorates, and the Colonies or Dependencies of the British Empire mean and include those matters which, with respect to those places respectively, have usually been administered by the Department of the Government of the United Kingdom of which the Secretary of State for Foreign Affairs is the Head. PROVIDED ALWAYS that none of the powers, authorities, rights, or privileges possessed by the Parliament or Government of any Dominion, or by the Legislature or Government of any Province or State thereof, shall be abridged or prejudiced by the foregoing definition of Foreign Affairs. With respect to India, Egypt, the Protectorates, and the Colonies or Dependencies of the British Empire, other than the Dominions, such term shall include such other matters as the Imperial Council may from time to time declare to be Foreign Affairs, and the Council may from time to time declare that matters included in Foreign Affairs shall not be included therein. Any such declaration may be unlimited or limited as to time or purpose and may be from time to time repealed or altered by extension, limitation, addition, or omission. With respect to the United Kingdom and the Dominions the Imperial Council may from time to time, with the assent of the respective Parliaments of those places respectively, declare that Foreign Affairs shall include such matters, not included therein with respect to said places, as may be provided for in such assent, or shall not include matters which are included therein. Such declaration, if so authorized by such assent, may be unlimited or limited as to time or purpose, and may with such assent be from time to time repealed or altered by extension, limitation, addition, or omission.

Proviso.

Special declaration respecting India et al.

Legislative powers of Imperial Council.

29. His Majesty the King, by and with the advice of the Imperial Council, may make laws respecting the following matters, viz.:—

(1) The Foreign Affairs of the British Empire, and every part thereof.

(2) The upholding and defending of the rights and interests of the Empire, and every part thereof, against all foreign aggression.

(3) The declaration and prosecution of war against any foreign power or people.

(4) Trading or dealing with an enemy.

(5) Censorship.

(6) The making of peace and the terms thereof.

(7) The Military Forces and Services of the British Empire, and every part thereof, and the disposition and use thereof, subject to the limitations hereinafter set out respecting Colonial Armies and Colonial Navies in times of peace.

(8) Naval stations.

(9) Empire Finance, including the borrowing of money on the credit of the Council, for any of the purposes or services of, or controlled by, the Council, and the giving of obligations and securities therefor.

(10) The constitution of Departments for the executive administration and control of such affairs as come within the classes of matters respecting which the Imperial Council is authorized to make laws.

(11) The appointment of, and the fixing of the salaries and allowances of officers and persons required in connection with the matters in this clause mentioned, and the service of the Imperial Council.

(12) Pensions and allowances to those in the Military, Naval, and Civil Service of the Council.

(13) The imposition of punishment by fine, penalty, or imprisonment for enforcing or punishing the violation of any law, rule, regulation, or order of the Council made in relation to any matter coming within any of the classes of subjects enumerated in this clause.

(14) The constitution, maintenance, and organization of Courts having jurisdiction in the whole or parts of the British Empire, for the better administration of the laws in relation to any matter coming within any of the classes of subjects enumerated in this clause, and the appointment and payment of the Judges of such

Courts and their terms of office, and providing for appeals (if any) therefrom.

(15) The payment of expenditure incurred by or under the authority of the Council or of any laws, rules, regulations, or orders thereof.

(16) Right of eminent domain in connection with any of the foregoing matters, including commandeering and requisitioning.

(17) The great seal of the Imperial Council and the seals of any Department thereof.

(18) Generally all matters arising out of, or incidental to any of the foregoing matters.

Exclusive powers.

The powers conferred by this clause to make laws respecting the matters included in sub-paragraphs (1), (3), (6), (7), (8), (9), (10), (11), (12), (14), (15), and (17) are exclusive. The powers respecting the matters included in the other sub-paragraphs of this clause are not exclusive, but where a law of the United Kingdom, or of a Dominion, or a State or Province therein, is inconsistent with a law of the Imperial Council, respecting matters included in such other sub-paragraphs, the latter shall prevail, and the operation of the former shall, to the extent of the inconsistency, be suspended.

Not exclusive powers.

Executive authority.

30. The Executive Government and authority of and over the matters in respect of which the Imperial Council is authorized to make laws, shall continue and be vested in the King.

Department of Council.

31. Subject to laws of the Imperial Council, there shall be Departments under its control which shall have executive administration and control over the following matters, viz.:—(a) Foreign Affairs, (b) Military Forces and Services, (c) Naval Forces and Services, (d) Empire Finance, and the following officers shall be appointed by the Council from among its members, viz.:—A Secretary of State for Foreign Affairs, a Secretary of State for Military Forces and Services, a Secretary of State for Naval Forces and Services, a Minister of Empire Finance, who shall respectively be the administrative Heads of the said departments respectively, and who shall hold office during the pleasure of the Council.

Certain Ministers hold office

32. A member of the Imperial Council holding office as Secretary of State for Foreign Affairs, or Secretary of State for

Military Forces and Services, or Secretary of State for Naval Forces and Services, or Minister of Empire Finance, and whose term as member of the Council expires, shall continue to hold such office until his successor is appointed. till successors appointed.

33. Except as otherwise provided by the Ratifying Act, and subject to laws of the Imperial Council, so much of the Military and Naval Forces and Services of the Empire as, at the time when the Ratifying Act comes into force, are administered or controlled by Departments, or some of them, of the Government of the United Kingdom, and the properties and business, and books, records, and documents relating thereto, and the officers, clerks, and employees who are engaged in such administration and control, shall be transferred to the administration and control of the Imperial Council, and until a Secretary of State for Foreign Affairs, a Secretary of State for Military Forces and Services, and a Secretary of State for Naval Forces and Services have been appointed by the Imperial Council, the Ministers of the Crown, being Heads of such Departments respectively, shall respectively continue such administration and control between the time of such transfer and the making of such appointments respectively. Transfer of certain Departments to Council.

34. Subject to the Ratifying Act, and to laws of the Imperial Council, all persons in the Empire having duties to discharge in relation to matters respecting which the Imperial Council is empowered to make laws, shall continue to discharge their said duties, under the same liabilities, responsibilities, and penalties as if the Imperial Council had not been constituted. Duties of persons continued.

35. The Imperial Council may make rules, regulations and orders general or special relating to the administration of its departments and business and affairs. Rules and regulations.

36. The Imperial Council may pay to its President, out of the funds of the Council, a salary not exceeding ..... per annum, and to each other member a salary not exceeding ..... per annum. Travelling and other expenses (or allowances to cover same) incurred by the members in connection with attending meetings and with the business and affairs of the Council, may also be paid. The Secretary of State for Foreign Affairs, the Secretary of State for Military Forces and Salaries.

Services, the Secretary of State for Naval Forces and Services, and the Minister of Empire Finance may respectively be paid, in addition to their respective salaries as members of the Council, such salary as the Council may determine, not exceeding for the three, a total sum of ..... per year.

Privileges of Council and its members.

37. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Imperial Council, and by the members thereof respectively, shall be such as are, from time to time, defined by laws of the Council, but so that any such law defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those, at the time the Ratifying Act comes into force, held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof. Provided that until the Council enacts a law pursuant to this clause, the said Council and the members thereof respectively, shall have the same privileges, immunities, and powers as are, when said Act comes into force, held, enjoyed, and exercised by the said Commons House of Parliament and by the members thereof.

Existing laws.

38. Subject to the Ratifying Act and to laws of the Imperial Council, all laws in force in the British Empire, at the time when that Act comes into force, relating to the matters respecting which the Imperial Council is empowered to make laws exclusively, shall continue in force.

Governments, Courts, etc., to aid Council.

39. It shall be the duty of all Governments and of all Courts in all parts of the British Empire, and of the Judges and officials thereof, and of all Magistrates, Sheriffs, Police, and other officials connected with the administration of justice, to aid and assist in the carrying out and enforcing of the laws, rules, regulations, and orders of the Imperial Council and the decrees, orders, and judgments of the Courts constituted by it.

Command of Forces.

40. The Command in Chief of the Military and Naval Forces of the Empire, shall continue and be vested in His Majesty the King.

Administration of Colonial Forces

41. The administration and control of the Colonial Armies and the Colonial Navies, and all laws relating thereto, and to the administration and control thereof, as they exist at the time when the Ratifying Act comes into force, and the authority to repeal

or alter or abolish such laws, administration, and control, shall continue during all times when and from time to time a state of war, actual or apprehended, does not exist between the British Empire and any Foreign Power or people, and the administration and control of the Colonial Armies and the Colonial Navies shall not, during such times, be exercised by the Imperial Council without the assent of the Governments or authorities, which, at the time, respectively exercise administration and control over the same respectively; but upon a state of war, actual or apprehended, arising, and so long as the same exists, the control and administration of the Colonial Armies and the Colonial Navies may be exercised by the Imperial Council. The decision of the Imperial Council as to a state of war, actual or apprehended, existing shall be final. Nothing in this clause contained shall prejudice the right or power of the Imperial Council, from time to time, to bring or maintain within, or to remove from, any Dominion, Colony, or Dependency (including India and Egypt) so much of the Imperial Armies, or of the Royal Navies, as the Imperial Council may deem expedient.

during peace,

during war.

Imperial Forces in Dominions, etc.

42. When Military or Naval Service is required in connection with the Domestic or Internal Affairs of the British Isles, or of India, Egypt, or any Colony or Dependency of the Empire, including Protectorates, other than the Dominions, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Imperial Council may comply with a request for military or naval assistance made in accordance with rules or regulations established by it with reference to such requests, or may of its own motion send Military or Naval force to quell riot, insurrection, or other public disturbance, or to repel or overcome raids.

Imperial Military or Naval assistance in Domestic Affairs other than in Dominions.

43. When Military or Naval Service is required in connection with the Domestic or Internal Affairs of any of the Dominions, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Imperial Council may, upon the request of the Government of such Dominion, but not otherwise, send Military or Naval Forces or Service, if in the opinion of such Government the Military or Naval Forces or Service subject to its control is not adequate.

In the Dominions.

Control of local forces in such case.

44. Should Military or Naval Service be sent by the Imperial Council to any part of the British Empire (including a Dominion upon request of its Government) in connection with its Domestic or Internal Affairs or for any of the other purposes mentioned in the two preceding clauses, then the control and administration of the Colonial Armies and Colonial Navies belonging to such part may be exercised by or under the authority of the Imperial Council for such time as may, in its opinion, be required to accomplish the purpose.

Colonial Armies or Navies during peace.

45. When a state of war, actual or apprehended, does not exist between the British Empire and a Foreign Power or people, no part of the Colonial Armies or Colonial Navies belonging to a Dominion shall be sent out of such Dominion by the Imperial Council without the consent of the Government of such Dominion.

Naval Stations.

46. The Military or Naval Service required in connection with a Naval Station shall be furnished by the Imperial Council.

Expenses of Imperial Military assistance in Domestic Affairs other than in Dominions.

47. In case Military or Naval Service is furnished by the Imperial Council in connection with the Domestic or Internal Affairs of the British Isles, or of India, Egypt, or any Colony or Dependency, of the Empire, (including Protectorates) other than the Dominions, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Government of the United Kingdom shall bear all expenses in connection with such service, and shall repay to the Imperial Council any expenses incurred by it in that behalf.

In the Dominions.

48. In case Military or Naval Service is furnished by the Imperial Council in connection with the Domestic or Internal Affairs of any of the Dominions, or to quell riot, insurrection, or other public disturbance therein, or to repel or overcome raids, the Government of such Dominion shall bear all expenses in connection with such service and shall repay to the Imperial Council any expenses incurred by it in that behalf.

Recovery of expenses from other authorities.

49. The Government of the United Kingdom, or of a Dominion, as the case may be, making any payment of expenses in connection with Military or Naval Service furnished by the Imperial Council, shall have the right to recover such expenses from any Government or Municipality or other authority which would have been liable to pay the same had such Military or Naval

Service been furnished by the Government of the United Kingdom, or of the Dominion, as the case may be.

Decision of Judicial Committee of Privy Council.

50. Until the Imperial Council, with the approval of the Governments of the United Kingdom and the Dominions respectively, otherwise provides, the decision of His Majesty the King, upon the advice of the Judicial Committee of His Majesty's Most Honourable Privy Council, upon any question which may arise respecting the Executive or Legislative authority of the Imperial Council, or as to whether or not a law of the United Kingdom, or of a Dominion, or a state or province therein, is inconsistent with a law of the Imperial Council, shall be conclusive and binding upon all Courts and persons. The Imperial Council may refer for the decision of said Judicial Committee any question it may deem expedient to refer, relating to said Executive or Legislative authority, or as to such inconsistency, and the decision thereon shall be conclusive and binding upon all Courts and persons. PROVIDED ALWAYS that before any decision is given by His Majesty on the advice of said Judicial Committee relating to said Executive or Legislative authority, or as to such inconsistency, whether such decision is given on an appeal or on a reference, the said Governments respectively shall be notified of the hearing before the Judicial Committee, and shall be given an opportunity of being heard thereat by Counsel.

Amendments of constitution of Imperial Council.

51. The Ratifying Act and the terms of this agreement may, from time to time, be altered or amended by the Parliament of the United Kingdom, in accordance with the requests of the Government of the United Kingdom and of all the Parliaments of the Dominions transmitted by the respective Governments of the Dominions, provided that the alterations or amendments be made within one year after the receipt by the Government of the United Kingdom of the last of such requests.

Admission of other Colonies.

52. From time to time, on addresses from the Parliament of the United Kingdom, and from all the Parliaments of the Dominions, and from the Parliament of any Colony or Dependency of the British Empire now or hereafter constituted and hereafter possessing plenary powers of self-government, the Imperial Council may make an order to admit such Colony or Dependency as a party to this agreement, on such terms and conditions, in each

case, as may be expressed in the addresses, and the Imperial Council may, by such order, make in the terms of this agreement and in the terms of the Ratifying Act, all such alterations and amendments as may be required in that behalf and to make this agreement and the Ratifying Act, and the terms and conditions of said addresses consistent and effective to bind all parties thereto, including the Government of the Colony or Dependency admitted, and such Colony or Dependency.

FIRST SCHEDULE

First part, Naval Stations; second part, Protectorates.

SECOND SCHEDULE

The questions to be submitted to the plebiscite.

THIRD SCHEDULE

Oath of Allegiance.

NOTE:—The clauses relating to the plan of Finance to be inserted in an appropriate place.

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